

its own motion, or in response to a petition from any person, unless the Commission determines in a rulemaking that a modification is necessary either to bring the certification or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security. The rulemaking procedures must provide for notice and comment and an opportunity for the party which applied for the certification to request an informal hearing which uses the procedures described in § 52.51 of this subpart.

(2) Any modification the NRC imposes on a design certification rule under paragraph (a)(1) of this section will be applied to all plants referencing the certified design, except those to which the modification has been rendered technically irrelevant by action taken under paragraphs (a)(3), (a)(4), or (b) of this section.

(3) While a design certification is in effect under § 52.55 or § 52.61, unless (i) a modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security, and (ii) special circumstances as defined in 10 CFR 50.12(a) are present, the Commission may not impose new requirements by plant-specific order on any part of the design of a specific plant referencing the design certification if that part was approved in the design certification. In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the plant-specific order.

(4) Except as provided in 10 CFR 2.758, in making the findings required for issuance of a combined license or operating license, or for any hearing under § 52.103, the Commission shall treat as resolved those matters resolved in connection with the issuance or renewal of a design certification.

(b)(1) An applicant or licensee who references a standard design certification may request an exemption from one or more elements of the design certification. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption. The granting of an exemption on request of an applicant must be subject to litigation in the same manner as other issues in the operating license or combined license hearing.

(2) Subject § 50.59, a licensee who references a standard design certification may make changes to the design of the nuclear power facility, without prior Commission approval, unless the proposed change involves a change to the design as described in the rule certifying the design. The licensee shall maintain records of all changes to the facility and these records must be maintained and available for audit until the date of termination of the license.

(c) The Commission will require, prior to granting a construction permit, combined license, or operating license which references a standard design certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determinations, including the determination that the application is consistent with the certified design. This information may be acquired by appropriate arrangements with the design certification applicant.

Subpart C—Combined Licenses

§ 52.71 Scope of subpart.

This subpart sets out the requirements and procedures applicable to Commission issuance of combined licenses for nuclear power facilities.